

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

SHEIKH OMAR ABDUL RAHMAN and
DAVID ROTHROCK,

Plaintiffs,

v.

CIVIL ACTION NO. 2:14-CV-46
The Honorable John Preston Bailey

KHALED SHEIKH MOHAMMED,

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION AND ISSUANCE OF A
PRE-FILING INJUNCTION**

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge James E. Seibert [Doc. 8-1]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Seibert for submission of a proposed report and a recommendation ("R & R"). Magistrate Judge Seibert filed his R&R on August 20, 2014, wherein he recommends this Court 1) dismiss Sheikh Omar Abdul Rahman and Khaled Sheikh Mohammed; 2) dismiss this case pursuant to 28 U.S.C. § 1915A because it is frivolous and malicious; and 3) dismiss the plaintiffs' pending Emergency Motion for Preliminary Injunction/Motion for Temporary Restraining order as moot.

Pursuant to 28 U.S.C. § 636 (b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the

factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Seibert's R&R were due within fourteen (14) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). The docket reflects that service was accepted on August 22, 2014 [Doc. 9]. No objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the above, it is the opinion of this Court that the **Report and Recommendation [Doc. 8]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, this Court **ORDERS** the following:

- 1) **DISMISS** Sheikh Omar Abdul Rahman and Khaled Sheikh Mohammed;
- 2) **DISMISS** this case pursuant to 28 U.S.C. § 1915A because it is frivolous and malicious; and
- 3) **DISMISS** the plaintiffs' pending Emergency Motion for Preliminary Injunction/Motion for Temporary Restraining Order [Doc. 2] **as MOOT**.

This Court further **DIRECTS** the Clerk to:

- 1) return, unfiled, any papers submitted in any future civil case by or on behalf of David Rothrock (except for notice of appeal in this case or unless filed from a West Virginia penal facility or in a habeas corpus proceeding);

- 2) note on the docket of this case any attempted filings in violation of this Order;
- 3) upon entry of this Order, to send a copy of the Report and Recommendations [Doc. 8] and a copy of this final Order to the warden of the Benner Township Prison in Pennsylvania, along with a copy of David Rothrock's filing [Doc. 1];
- 4) enter judgment in favor of the defendant; and
- 5) **STRIKE** this case from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* petitioners.

DATED: September 23, 2014.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE